

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BRIAN BRANCH, as Guardian Ad Litem for
Cynthia N., Charles N. and Christina N.,
minor children, and KENNETH MARTINEZ,
as Guardian Ad Litem for James R., Diana R.
and Michael R., minor children,

Civ. No. 01-922 MV/WWD ACE

Plaintiffs,

vs.

FARMERS INSURANCE CO. OF
ARIZONA,

Defendant.

MEMORANDUM OPINION AND ORDER

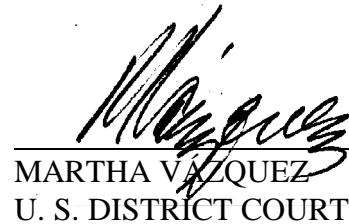
THIS MATTER comes before the Court on Defendant's Motion to Strike Plaintiffs' Notice of Supplemental Authority and Supporting Authority, filed December 19, 2002, [Doc. No. 150]. On December 17, 2002, Plaintiffs filed a Notice of Supplemental Authority attaching deposition testimony from Plaintiffs' expert, Garth Allen, and Defendant's expert, Tony Schrader, on issues raised in Defendant's four pending motions for summary judgment. Due to scheduling conflicts, this deposition testimony was not taken until after Plaintiffs submitted their summary judgment response briefs. Defendant seeks to strike this filing, contending that it constitutes an unauthorized and untimely surreply.

The Court finds that the deposition testimony submitted by Plaintiffs was unavailable when Plaintiffs filed their response briefs, is relevant to the issues before the Court, and does not

prejudice Defendant, who has had an opportunity to file a response.

IT IS THEREFORE ORDERED that Defendant's Motion to Strike Plaintiffs' Notice of Supplemental Authority and Supporting Authority, filed December 19, 2002, [**Doc. No. 150**] is hereby **DENIED**.

Dated this 26th day of January, 2004.



MARTHA V. QUEZ
U. S. DISTRICT COURT JUDGE

Attorneys for Plaintiffs:

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